



New Case Brief  
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**Valerie Hawkins v. Amberwood Products;**  
**State Compensation Insurance Fund**

SAL 0107814

(Opinion and Decision after Reconsideration [*en banc*], June 13, 2007)

The Workers' Compensation Appeals Board (WCAB) has issued a six to one *en banc* decision holding that the temporary disability limitation of Labor Code Section 4656(c)(1) limiting temporary disability to 104 weeks within a period of two years from the date of commencement of temporary disability payments begins from the date that the defendant issues payment of temporary disability and not from the date the liability for temporary disability begins.

Ms. Hawkins sustained an admitted workers' compensation injury as the result of a cumulative trauma to her cervical spine ending on July 16, 2004. On May 3, 2005 defendant, State Compensation Insurance Fund (SCIF), made its first payment of temporary disability (TD) for the period July 17, 2004 to May 2, 2005. SCIF made continuous payments of TD through July 14, 2006 when it terminated TD on the basis that it had paid 104 weeks of TD within the two years from the beginning of the period of TD.

The Workers' Compensation Judge (WCJ) ordered payment of TD beyond July 17, 2004 on the basis that the 104 weeks/two year limitation should begin on May 3, 2005 when the initial payment of TD was made. The Judge's decision would allow TD to continue through April 30, 2007. Assuming the applicant continued to be temporarily disabled and did not become permanent and stationary or return to work before April 30, 2007, she would have received over 145 weeks of TD.

Defendant filed a Petition for Reconsideration arguing that the 104 weeks/two year limit should begin on July 17, 2004, the first day of the period of TD. In an Opinion and Decision After Reconsideration made *en banc* (i.e. a decision made by all seven of the commissioners of the WCAB rather than the usual three commissioner panel), the WCAB affirmed the decision of the WCJ. The six commissioner majority concluded that the plain meaning of the statute was that the limitation was to start from the date the first check issued paying TD, (May 3, 2005) rather than from the first day of the period of TD (July 17, 2004). The Board also said that their holding was consistent with the policy of the Workers' Compensation system to encourage defendants to pay TD as soon as possible to protect injured workers from lengthy periods without benefits or income. Only one commissioner dissented from the final decision.